



# PUBLIC NOTICE

**Federal Communications Commission**  
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**Washington, DC 20554**

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TTY: 888-835-5322

**DA 21-983**  
**August 12, 2021**

## **AUCTION OF AM AND FM BROADCAST CONSTRUCTION PERMITS CLOSES**

### **WINNING BIDDERS ANNOUNCED FOR AUCTION 109**

**Down Payments Due August 26, 2021**  
**Final Payments Due September 13, 2021**  
**Long-Form Applications Due September 13, 2021**

**AU Docket No. 21-39**

#### **I. INTRODUCTION**

1. On August 5, 2021, bidding concluded in the Commission's auction of AM and FM broadcast construction permits. This auction, which was designated Auction 109, raised in net bids a total of \$12,344,110, with 67 bidders winning a total of 97 construction permits.

2. By this Public Notice, the Office of Economics and Analytics (OEA) and the Media Bureau (MB) announce the results of Auction 109. This Public Notice provides detailed information concerning winning bidders, down payments, final payments, refunds, long-form application (FCC Form 2100, Schedule 301-FM) filing requirements, and other post-auction procedures.<sup>1</sup>

#### **II. AUCTION 109 RESULTS AND PAYMENTS**

3. This Public Notice provides auction result summaries and related payment information in Attachments A and B. Attachment A summarizes auction results for each bidder. Attachment B lists, for each bidder, information about the bidder's upfront payment and post-auction payments or refund, as applicable.

##### **A. Summary of Auction Results by Permit**

4. The Winning Bids attachment, Attachment A to this Public Notice, lists the auction results for each permit. Specifically, for each construction permit, Attachment A provides the following information:

- Permit
- Permit Description
- Bid Round Number

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<sup>1</sup> Commission staff will send to each Auction 109 qualified bidder a package that includes a copy of this Public Notice. This package will be sent by overnight delivery via UPS only to the contact person at the contact person's address identified in the qualified bidder's short-form application (FCC Form 175). This package will require a signature to confirm receipt. The person signing for the package does not need to be the contact person identified in the qualified bidder's short-form application.

- Bidder Name
- FRN (bidder's FCC Registration Number)
- Winning Bid Amount
- Net Winning Bid Amount

5. Two winning bidders notified the Commission of actions taken after the Auction 109 short-form application (FCC Form 175) filing deadline that reduced their new entrant bidding credits. An attributable interest holder of bidder Xana HD Solutions, LLC, acquired a mass media interest, reducing Xana HD Solutions, LLC's new entrant bidding credit from 35% to 25%. Estrella Broadcasting LLC notified the Commission that its primary interest holder consummated a transaction that resulted in an acquisition of an additional attributable mass media interest, for a total of four attributable mass media interests. Accordingly, Estrella Broadcasting LLC's new entrant bidding credit was reduced from 25% to zero. Both of these new entrant bidding credit reductions are reflected in Attachments A and B as well as in each of those winning bidder's Form 175.

**B. Bidder Payments and Refunds**

6. The Bidder Payment/Refund attachment, Attachment B to this Public Notice, summarizes each qualified bidder's upfront payment and post-auction payments or refund, as applicable. For each bidder, Attachment B provides the following information:

- Bidder Name
- FRN (bidder's FCC Registration Number)
- Upfront Payment Amount
- Total Winning Bid Net Amount
- Down Payment Amount (20% of Net Winning Bids)
- Additional Amount Due After Upfront Payment Balance Applied—Due by August 26, 2021
- Final Payment Amount (80% of Net Winning Bids)
- Final Balance Due by September 13, 2021 or (Refund) (the Net Winning Bid, minus the Upfront Payment Amount and any Additional Amount Due for Down Payment After Upfront Payment Balance Applied)<sup>2</sup>

**C. Default and Disqualification Payments**

7. The Commission imposes payment obligations on bidders that, after an auction closes, default on payments due or are disqualified.<sup>3</sup>

8. Because Auction 109 is now closed, the Commission is in a position to calculate final default payments owed as a result of defaults on certain FM construction permits won in Auction 37,

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<sup>2</sup> For a non-winning bidder, this Final Balance Due amount, which is equal to its Upfront Payment Amount, is shown in parentheses and is available for refund. For a winning bidder, this amount may equal the Final Payment Amount. However, if the Upfront Payment Amount exceeds the Down Payment Amount, any excess will reduce the Final Balance Due.

<sup>3</sup> See 47 C.F.R. §§ 1.2104(g), 1.2109.

Auction 62, Auction 94, or Auction 98. Such amounts are identified in Attachment C. Forthcoming orders will assess such payments and will specify due dates for the payment of any such obligations.

### III. POST-AUCTION DEADLINES AND PROCEDURES

#### A. Down Payments – Due By 6:00 p.m. Eastern Time on August 26, 2021

9. The Commission's rules require that within 10 business days after the release of this Public Notice, in this case by **6:00 p.m. Eastern Time (ET) on August 26, 2021**, each winning bidder in Auction 109 must have on deposit with the Commission enough funds to cover the down payment on its winning bid(s).<sup>4</sup> Specifically, each winning bidder's total amount on deposit must be 20% of the aggregate net amount of its winning bid(s). Each winning bidder whose upfront payment is not sufficient to meet this requirement must deposit additional funds to meet its required down payment.<sup>5</sup>

10. All down payments must be made by wire transfer as instructed in this Public Notice.<sup>6</sup> Wire transfers for down payments must be received in the Commission's account at the U.S. Treasury by **6:00 p.m. ET on August 26, 2021**. The down payment amount due from each winning bidder, if any, is set out in the "Additional Amount Due after Upfront Payment Balance Applied Due by August 26, 2021" column of Attachment B. Note that an additional payment toward the down payment due is necessary only if a winning bidder's upfront payment does not cover the required total down payment (as reflected in Attachment B).

11. A winning bidder that fails to complete this down payment process consistent with the payment method described in this Public Notice by 6:00 p.m. ET on August 26, 2021 will be in default.<sup>7</sup>

#### B. Final Payments – Due By 6:00 p.m. Eastern Time on September 13, 2021

12. Each winning bidder in Auction 109 must submit the balance of the net amount of its winning bid(s), as set out in the "Final Balance Due By September 13, 2021 or (Refund)" column of Attachment B.<sup>8</sup> **To avoid a late fee or default, this payment must be made by wire transfer as instructed in this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on September 13, 2021. To avoid default, a late payment after this deadline must be made by wire transfer as instructed in this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on September 27, 2021, along with the 5% late fee required by section 1.2109(a) of the Commission's rules.**<sup>9</sup> Note that an additional payment toward the final balance due is necessary only if a winning bidder's upfront payment does not cover the required total down and final payment (as reflected in Attachment B).

13. A winning bidder that fails to complete this down payment process consistent with the payment method described in this Public Notice by 6:00 p.m. ET on September 13, 2021 (or by 6:00 p.m. ET on September 27, 2021, along with the 5% late fee) will be in default.<sup>10</sup>

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<sup>4</sup> 47 CFR § 1.2107(b); see *Auction 109 Procedures Public Notice*, at 44, para. 160.

<sup>5</sup> 47 CFR § 1.2107(b).

<sup>6</sup> See Section III.C., "Payment Instructions for Down Payments and Final Payments," below.

<sup>7</sup> See Section III.D., "Default and Disqualification Payments," below.

<sup>8</sup> 47 CFR § 1.2109(a).

<sup>9</sup> *Id.*

<sup>10</sup> See Section III.D., "Default and Disqualification Payments," below.

### C. Payment Instructions for Down Payments and Final Payments

14. All down payments and final payments must be made by wire transfer to the Commission's account at the U.S. Treasury, in accordance with the instructions in this Public Notice, by the applicable deadline.<sup>11</sup> **Winning bidders should pay close attention to the payment instructions set forth in this Public Notice, as they differ from the payment instructions provided in past auctions and from upfront payment procedures in this auction.** If a winning bidder has any questions about making a down payment or final payment, the winning bidder should contact Scott Radcliffe of the Office of the Managing Director's Revenue & Receivables Operations Group/Auctions at (202) 418-7518, [Scott.Radcliffe@fcc.gov](mailto:Scott.Radcliffe@fcc.gov), or Theresa Meeks at (202) 418-2945, [Theresa.Meeks@fcc.gov](mailto:Theresa.Meeks@fcc.gov), well in advance of the applicable deadlines.

15. All payments must be in U.S. dollars and made in the form of a wire transfer. No checks, credit card payments, automated clearing house (ACH), or other forms of payment will be accepted.

16. Each winning bidder is responsible for ensuring timely submission of all required payments. To avoid untimely payments, each winning bidder should discuss arrangements (including bank closing schedules, bank wire transfer schedules, and other bank wire transfer requirements, such as an in-person written request before a specified time of day) with its financial institution several days before it plans to make the wire transfer and should allow sufficient time for each wire transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer.<sup>12</sup>

17. Each winning bidder should direct its financial institution(s) to monitor carefully its wire transfer(s) to assure timely deposit in the correct account. As a regulatory requirement, the U.S. Treasury screens all payment from all financial institutions before deposits are made available to specified accounts. If wire transfers are suspended, the U.S. Treasury may direct questions regarding any transfer to the financial institution initiating the wire. Each winning bidder must make arrangements in advance to assure that any questions to its financial institution(s) are addressed promptly.

18. Each winning bidder is responsible for obtaining confirmation from its financial institution that its wire transfer to the U.S. Treasury was successful and from Commission staff that each payment was timely received and deposited into the proper account. To receive confirmation from Commission staff regarding receipt and deposit of wire transfers, a winning bidder may contact Scott Radcliffe at (202) 418-7518, [Scott.Radcliffe@fcc.gov](mailto:Scott.Radcliffe@fcc.gov), or Theresa Meeks at (202) 418-2945, [Theresa.Meeks@fcc.gov](mailto:Theresa.Meeks@fcc.gov).

19. Each payer must include specified information in its wire transfer instructions provided to its bank, as described below. **The Commission no longer requires payers to submit a completed FCC Remittance Advice Form (Form 159) with down payments or final payments.**<sup>13</sup> The Commission will credit any such payments based on the information accompanying the wire transfer. To submit funds by wire transfer, the winning bidder must include the following information in its wire transfer instructions:

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<sup>11</sup> A winning bidder must initiate the wire transfer through its bank, authorizing the bank to wire funds from the winning bidder's account to the Commission's account at the U.S. Treasury.

<sup>12</sup> See, e.g., *Four Corners Broadcasting, LLC*, Letter Order, 25 FCC Rcd 9046 (WTB 2010); *Spectrum Acquisitions, Inc.*, Letter Order, 23 FCC Rcd 4765 (WTB 2008); *Lynch 3G Communications Corp.*, Letter Order, 18 FCC Rcd 11552 (WTB 2003).

<sup>13</sup> FCC Form 159 now is used in Commission auctions for upfront payments only.

ABA Routing Number: 021030004

Receiving Bank: TREAS NYC

33 Liberty Street

New York, NY 10045

ACCOUNT NAME: FCC

45 L Street, NE, 3<sup>rd</sup> Floor

Washington, DC 20554

ACCOUNT NUMBER: 27000001

Originating Bank Information (OBI Field): (Skip one space between each information item)

“AUCTIONPAY”

APPLICANT FCC REGISTRATION NUMBER (FRN): (use the same FRN as used on the FCC Form 175)

PAYMENT TYPE CODE: (“D109”)

PAYER NAME

CONTACT NAME AND PHONE NUMBER OR EMAIL ADDRESS

20. Please direct questions concerning the calculation and submission of down payments, final payments, or refunds to the Scott Radcliffe at (202) 418-7518, [Scott.Radcliffe@fcc.gov](mailto:Scott.Radcliffe@fcc.gov), or Theresa Meeks at (202) 418-2945, [Theresa.Meeks@fcc.gov](mailto:Theresa.Meeks@fcc.gov). Auctions Accounting Branch staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.

**D. Default and Disqualification Payments for Auction 109**

21. The Commission imposes payment obligations on bidders that default on payments due after an auction closes and on bidders that are disqualified.<sup>14</sup>

22. If a winning bidder defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make full payment of the balance of its winning bid(s) by the specified deadline, or is otherwise disqualified for any reason), the defaulting bidder will be subject to the payment obligations described in section 1.2104(g)(2) of the Commission’s rules.<sup>15</sup> These payment obligations include both a deficiency payment and an additional payment amount. The deficiency payment component applies only in the event that the subsequent winning bid the next time the permit is won in an auction is less than the defaulted bid. The deficiency payment is equal to the difference between the amount of the defaulter’s bid and the amount of the subsequent winning bid.<sup>16</sup> The additional payment is owed by each defaulting bidder and is equal to a percentage of the defaulter’s bid or the subsequent winning bid, whichever is less.<sup>17</sup> The additional default payment for Auction 109 permits was set at 20% of the applicable bid.<sup>18</sup>

23. If a winning bidder fails to remit the required down payment by the August 26, 2021, deadline specified in this Public Notice, the bidder will be deemed to have defaulted, its long-form application will be dismissed, and it will be liable for a default payment as described above.<sup>19</sup>

24. If a winning bidder fails to pay the balance of its winning bid in a lump sum by the September 13, 2021, deadline specified in this Public Notice, then it will be allowed to make a late

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<sup>14</sup> 47 CFR §§ 1.2104(g), 1.2109.

<sup>15</sup> *Id.*

<sup>16</sup> 47 CFR § 1.2104(g)(2)(i).

<sup>17</sup> *Id.*

<sup>18</sup> *Auction 109 Procedures Public Notice*, at 45, para. 164. *See also* 47 CFR § 1.2104(g)(2)(ii).

<sup>19</sup> 47 CFR § 1.2109(c); *see also* 47 CFR § 1.2104(g)(2).

payment within 10 business days after the payment deadline, provided that it also pays a late fee equal to 5% of the amount due.<sup>20</sup> If a winning bidder fails to pay (a) the balance of its winning bid by the payment deadline on September 13, 2021, or (b) the balance of its winning bid plus the late fee by the late payment deadline on September 27, 2021, then it will be in default, and it will be subject to applicable default payments.<sup>21</sup>

25. The Commission will review an applicant's long-form application only after receipt of full and timely payment for the winning bid amount and any applicable late fees. The relevant construction permit will be granted only after full and timely payment of the winning bid amount (and any applicable late fees) and a determination that the long-form application meets the Commission's requirements for grant.<sup>22</sup>

26. A bidder that is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture of its upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.<sup>23</sup>

#### E. Refund of Excess Payments

27. Upfront payment monies on deposit that are in excess of an applicant's Auction 109 obligations may be refunded to the payer of record as identified on the FCC Form 159 submitted with the applicant's upfront payment, unless that payer submits written authorization providing alternative payee instructions.

28. To receive a refund to an individual or entity other than to the payer of record as identified on the FCC Form 159 submitted for a particular applicant's upfront payment in Auction 109, an applicant must submit a written refund request with the information indicated in the next paragraph. Each applicant can provide this information by using the FCC auction application system to file its refund information electronically, using the **Refund Form** link found on the *My Auctions* page. After the required information is completed on the blank form, the form should be printed, signed, and submitted to the Commission by fax or email as instructed below.

29. If you have elected not to access the Refund Form through the My Auctions page, the Commission requests that all information listed below be supplied in writing:

Name, address, contact and phone number of Bank  
Automated Clearing House (ACH) ABA Number (Please verify this number with your Bank)  
Account Number to Credit  
Name of Account Holder  
FCC Registration Number (FRN)

30. The refund request must be submitted by fax to the Revenue & Receivables Operations Group/Auctions at (202) 418-2843, by email to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov).

31. An applicant seeking a refund should verify that the taxpayer identification number (TIN) associated with its FCC Registration Number (FRN) is correct by visiting the FRN website at

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<sup>20</sup> *Id.* §§ 1.2109(a), 73.5003.

<sup>21</sup> *Id.* §§ 1.2104(g)(2), 1.2109(a), 1.2109(c).

<sup>22</sup> *Id.* §§ 1.2109(a), 73.5003, 73.5006(d).

<sup>23</sup> *Id.* § 1.2109(d).

<https://apps.fcc.gov/cores> to update its records before submitting a refund request. A refund request related to an FRN with no TIN on file cannot be processed until a TIN is provided in CORES.

32. Refund processing generally takes up to two weeks to complete. Any questions concerning refunds should be directed to the Scott Radcliffe at (202) 418-7518, [Scott.Radcliffe@fcc.gov](mailto:Scott.Radcliffe@fcc.gov), or Theresa Meeks at (202) 418-2945, [Theresa.Meeks@fcc.gov](mailto:Theresa.Meeks@fcc.gov). Auctions Accounting Branch staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.

**F. Long-Form Application – Due By 11:59 p.m. ET on September 13, 2021**

33. Each winning bidder must submit electronically a separate, properly completed long-form application, including each required exhibit, for each permit for which it was the winning bidder in Auction 109, along with the applicable application filing fee,<sup>24</sup> **no later than 11:59 p.m. ET on September 13, 2021.**<sup>25</sup>

34. Each winning bidder must electronically file FCC Form 2100, Schedule 301-FM in the Media Bureau's Licensing and Management System (LMS). In accordance with the Commission's rules, electronic filing of FCC Form 2100, Schedule 301-FM, must be accompanied by the appropriate application filing fee.<sup>26</sup> The winning bidder's long-form application may only propose technical facilities that are either identical to or are considered minor changes with respect to each permit for which it was the winning bidder.<sup>27</sup> If information submitted on the FCC Form 2100, Schedule 301-FM application by the winning bidder indicates that the applicant has effected a major change relative to information reported on the applicant's short-form application (FCC Form 175), then the long-form application will be dismissed and the applicant will be in default.<sup>28</sup>

35. For instructions and technical requirements for filing FCC Form 2100, Schedule 301-FM in LMS, go to the LMS login page at <https://enterpriseefiling.fcc.gov/dataentry/login.html>. Click on the

<sup>24</sup> A winning bidder in Auction 109 is required to submit an application filing fee with each long-form application. 47 CFR § 1.1104. The application filing fee must be paid in addition to the winning bid amount. The Commission recently adopted a new long-form application filing fee that includes an amount to recover costs for processing the short-form application. *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 20-270, Report and Order, 35 FCC Rcd 15089, 15118-15122, paras. 91-104 (2020) (amending filing fee schedule for FM long-form applications). Amended section 1.1104, which specifies filing fees for FM long-form applications, became effective July 15, 2021. FCC, Schedule of Application Fees of the Commission's Rules, Notice of Effective Date, 86 Fed. Reg. 35507 (July 6, 2021). In an Application Fee Filing Guide for Media Bureau, released July 15, 2021, the Commission's Office of Managing Director announced that this consolidated long-form application filing fee for each FM station construction permit is \$3,870.00. The consolidated long-form application filing fee that must be submitted for each Auction 109 long-form application must conform to the specified fee announced in the July 15, 2021, Application Fee Filing Guide for Media Bureau, \$3,870.00 for an FM station construction permit.

<sup>25</sup> Section 73.5005(a) of the Commission's rules, 47 CFR § 73.5005(a), provides that the filing deadline for the submission of post-auction long-form applications may be specified by public notice at a date later than 30 days following the close of bidding and notification to the winning bidders. See *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, MB Docket No. 09-52, First Report and Order and Further Notice of Proposed Rule Making, 25 FCC Rcd 1583, 1607-08, paras. 47-48 (2010).

<sup>26</sup> *Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, MM Docket No. 97-234, First Report and Order, 13 FCC Rcd 15920, 15984-85, para. 164 (1998) (*Broadcast Competitive Bidding Order*). See 47 CFR §§ 1.1104, 1.2107(c). See also Application Fee Filing Guide for Media Bureau (July 15, 2021).

<sup>27</sup> See 47 CFR §§ 1.2107(c), 73.3573(a)(1)-(a)(2), 73.3573(f)(5)(iii), 73.5005(b).

<sup>28</sup> See 47 CFR §§ 1.2109(c), 73.3522(a)(3), 73.3573(f)(5)(iii).

“LMS Help Center” link on the LMS login page. In the Help Center there are several links to information and guidance for electronic filing of applications. Pay particular attention to the “Before You Start LMS Electronic Filing . . .” and “Logging in to LMS” sections. You can also find specific assistance for filing FCC Form 2100, Schedule 301-FM, at [www.fcc.gov/sites/default/files/lms-filing-fm-cp-or-license-application.pdf](http://www.fcc.gov/sites/default/files/lms-filing-fm-cp-or-license-application.pdf). Instructions for filling out the sections of FCC Form 2100, Schedule 301-FM can be found at [www.fcc.gov/sites/default/files/lms-301-fm-construction-permit-application.pdf](http://www.fcc.gov/sites/default/files/lms-301-fm-construction-permit-application.pdf). Both of the preceding links can be accessed from the LMS Help Center. When filing FCC Form 2100, Schedule 301-FM, an applicant must select “NEW FM Full Power Construction Permit Application” from the pull-down menu under the blue “File an Application” button at the top of the LMS landing page (the page to which you are taken after logging in to LMS).<sup>29</sup> This will take you to the first section of Schedule 301-FM – General Information. After completing that section click the “Save and Continue” button to go to the next section. Every section must be completed without errors (indicated by a green check mark on the Application Sections listing to the right of the form) before the form can be certified and submitted. Winning bidders who have questions regarding basic filing requirements or who need assistance logging into LMS should contact the LMS Help Desk at (877) 480-3201 (Option 2), Monday through Friday, 8:00 to 6:00 pm ET.

36. Commission staff will return applications not submitted in accordance with the procedures described in this Public Notice. In order to avoid processing delays, applicants are encouraged to pay the long-form application filing fee electronically using the relevant filing system.

37. A winning bidder that fails to submit the required long-form application before the specified deadline, and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and shall be subject to the payments set forth in section 1.2104(g) of the Commission’s rules.<sup>30</sup>

#### **G. Additional Post-Auction Filing Requirements**

38. To file a complete long-form application, each Auction 109 winning bidder must submit the post-auction exhibits required by section 73.5005(a) of the Commission’s rules.<sup>31</sup> Section 73.5005(a) requires that post-auction long-form applications include the exhibits mandated by section 1.2107(d) (providing a detailed explanation of the terms, conditions, and parties involved in any bidding consortium, joint venture, partnership, or other agreement or arrangement the applicant had entered into relating to the competitive bidding process),<sup>32</sup> and section 1.2112(a) (requiring that each long-form application fully disclose ownership information and the real party or parties in interest in the applicant or application).<sup>33</sup>

39. A winning bidder claiming new entrant bidding credit eligibility also must provide in its long-form application the information establishing its eligibility,<sup>34</sup> including, where relevant, the submission of a response to the multiple ownership question on its long-form application.<sup>35</sup> Generally,

<sup>29</sup> The “NEW FM Full Power Construction Permit Application” will only be available to a winning bidder logging in to LMS using the FRN associated with it in Auction 109.

<sup>30</sup> See 47 CFR §§ 1.2104(g), 1.2107(c), 73.5005(c).

<sup>31</sup> 47 CFR § 73.5005(a). See also Instructions — Form 2100, Schedule 301-FM, Commercial FM Station Construction Permit Application (Form 2100 Schedule 301-FM Instructions), Instructions for Auction Authorization section, for auction-related exhibit filing requirements.

<sup>32</sup> 47 CFR § 1.2107(d).

<sup>33</sup> *Id.* § 1.2112(a).

<sup>34</sup> 47 C.F.R. §§ 1.2107(d), 73.3555 & Note 2, 73.5007, 73.5008.

<sup>35</sup> See Form 2100, Schedule 301-FM, Attributable Interest - Multiple Ownership section.



media interests will be attributable for purposes of the new entrant bidding credit to the same extent that such other media interests are considered attributable for purposes of the broadcast multiple ownership rules. The Commission also attributes the media interests held by substantial investors in, or creditors of, an applicant claiming new entrant status.<sup>36</sup> Specifically, the attributable mass media interests held by an individual or entity with an equity and/or debt interest in an applicant are attributed to that bidder for purposes of determining its eligibility for the new entrant bidding credit, if the equity and debt interests, in the aggregate, exceed 33 percent of the total asset value of the applicant, even if such an interest is non-voting.<sup>37</sup> We also remind winning bidders that each Auction 109 applicant that requested a new entrant bidding credit was required to specify in its FCC Form 175 whether the applicant is using the relaxed equity/debt plus attribution standard for “eligible entities”<sup>38</sup> to qualify for the new entrant bidding credit in Auction 109.<sup>39</sup>

40. The Commission’s “red light rule” that implements the Debt Collection Improvement Act will be enforced.<sup>40</sup> Under the red light rule, the Media Bureau will not process applications or other requests for benefits filed by parties that have outstanding debts owed to the Commission.<sup>41</sup>

#### **H. Maintaining Accuracy of Information**

41. Now that Auction 109 has closed, all required changes to an applicant’s information must be made by filing or amending the applicant’s long-form application(s) (FCC Form 2100, Schedule 301-FM). With the release of this Public Notice, an Auction 109 applicant is no longer required to maintain the accuracy and completeness of information furnished on its Auction 109 short-form application (FCC Form 175) and exhibits.<sup>42</sup>

#### **I. Application Processing, Petitions to Deny, and Construction Permit Grant**

42. After its initial review of the long-form applications, the Media Bureau will issue public notices listing the applications as they are accepted for filing. Pursuant to section 73.5006 of the Commission’s rules,<sup>43</sup> interested parties will have 10 days from release of that public notice to file any petitions to deny the applications.<sup>44</sup> The Media Bureau will use public notices generated by LMS to start the 10-day period for filing petitions to deny. A public notice entitled “Applications” in LMS will list such applications as “Accepted for Filing.” An applicant may file an opposition to any petition to deny within 5 days after the filing deadline for petitions to deny its long-form application.<sup>45</sup> Replies must be

<sup>36</sup> 47 C.F.R. § 73.5008(c) (attribution of mass media interests).

<sup>37</sup> *Id.* See also Instructions for Form 2100 Schedule 301-FM Instructions, Parties to the Application – Equity/Debt Plus Attribution Standard section.

<sup>38</sup> In 2008, the Commission relaxed the equity/debt plus attribution standard, to allow for higher investment opportunities for an entity meeting the definition of an “eligible entity.” *Promoting Diversification of Ownership in the Broadcasting Services*, MB Docket No. 07-294, Report and Order and Third Further Notice of Proposed Rule Making, 23 FCC Rcd 5922 (2008).

<sup>39</sup> See *Relaxed Equity/Debt Plus Attribution Standard Available in Auction 109*, AU Docket No. 21-39, Public Notice, DA 21-483 (MB/OEA Apr. 27, 2021).

<sup>40</sup> 47 CFR § 1.1910.

<sup>41</sup> *Id.*; see also *id.* § 1.2109(c) (post-auction defaults).

<sup>42</sup> See *id.* § 1.65.

<sup>43</sup> *Id.* § 73.5006(b).

<sup>44</sup> *Id.* § 73.5006.

<sup>45</sup> *Id.* § 73.5006(c).

filed within 5 days after the filing deadline for oppositions to a petition to deny a long-form application.<sup>46</sup> The Commission reminds all parties and their counsel that the Commission intends to use its authority fully to deter the filing of frivolous pleadings.<sup>47</sup>

43. After the long-form application review process, if the Commission determines that additional payment from an applicant is due, the Media Bureau will provide further instructions in a future public notice or by demand letter.<sup>48</sup> If the Commission determines that an applicant is otherwise qualified, that there are no substantial and material issues of fact regarding the applicant's qualifications to be a Commission licensee, and that no additional payments are due, the Commission will grant the construction permit.<sup>49</sup>

#### IV. OTHER IMPORTANT INFORMATION

##### A. Maintaining Prohibition on Certain Communications

44. For Auction 109, section 1.2105(c)(1) of the Commission's rules provides that, subject to specified exceptions, after the deadline for filing a short-form application, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing to each other in any manner the substance of their own, or each other's, or any other applicant's bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline.<sup>50</sup> As explained more fully in the *Auction 109 Procedures Public Notice*, this prohibition began at the short-form application filing deadline at 6:00 p.m. ET on May 11, 2021, and continues until the down payment deadline, which is **6:00 p.m. ET on August 26, 2021**.<sup>51</sup>

45. The prohibition on certain communications applies to all applicants in Auction 109, regardless of whether an applicant became a qualified bidder or actually participated in the bidding.<sup>52</sup> Each applicant in this auction certified its compliance with section 1.2105(c) when it filed its short-form application.<sup>53</sup>

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<sup>46</sup> *Id.*

<sup>47</sup> See *Commission Taking Tough Measures Against Frivolous Pleadings*, Public Notice, 11 FCC Rcd 3030 (1996).

<sup>48</sup> For example, in an auction where a winning bidder has claimed eligibility for the new entrant bidding credit, Commission staff may determine that a winning bidder is not entitled to the level of bidding credit that it has claimed and may require an additional payment to cover the amount of any percentage discount for which it was not eligible (a payment as necessary to account for the difference between claimed and actual bidding credit eligibility). See 47 CFR § 73.5007(a).

<sup>49</sup> See 47 CFR §§ 1.2108(d), 1.2109(a). See also 47 CFR § 73.5006(d). Although we expect applicants to provide complete and accurate information in all filings with the Commission, under our liberal amendment policy we will permit winning bidders to file minor amendments to their long-form applications including, as necessary, minor amendments to resolve site availability issues. See 47 CFR 73.3522(a). See also *Broadcast Competitive Bidding Order*, 13 FCC Rcd at 15986-89, paras. 167-76; *Entravision Holdings, LLC*, Letter Order, 27 FCC Rcd 15190, 15193 (MB 2012); *Robert D. Yates, Jr.*, Letter Order, 28 FCC Rcd 6269, 6271 (MB 2013).

<sup>50</sup> 47 CFR § 1.2105(c)(1). See also *Updating Part 1 Competitive Bidding Rules*, WT Docket No. 14-170, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, Third Report and Order, 30 FCC Rcd 7493, 7576-77, paras. 195, 199 (2015) (modified by Erratum, 30 FCC Rcd 8518 (WTB 2015)).

<sup>51</sup> See *Auction 109 Procedures Public Notice*, at 13-17, paras. 37-52.

<sup>52</sup> See *id.*, at 13, paras. 37-38.

<sup>53</sup> See 47 CFR § 1.2105(a)(2)(ix).

**B. Return of SecurID® Tokens**

46. The SecurID® tokens distributed to qualified bidders are tailored to this auction and will not work for future auctions. The Commission will send each bidder, along with a copy of this Public Notice, a pre-addressed, stamped envelope to return its SecurID® tokens. Each bidder should return its SecurID® tokens to the Commission for recycling by **August 26, 2021**.

**C. Contact Information**

47. For further information, contact:

**Press Information**

Janice Wise at (202) 418-8165

**Licensing Information**

Service Rules, Policies, Regulations  
Licensing Issues, Engineering Issues  
Due Diligence, Incumbency Issues,  
FCC Form 2100, Schedule 301-FM questions

**Audio Division, MB**

Lisa Scanlan (Attorney) or  
Tom Nessinger (Attorney),  
James Bradshaw (Engineer) at  
(202) 418-2700

**Auction Payment Information**

Wire Transfers  
Refunds

**FCC Revenue & Receivables Operations  
Group/Auctions**

Scott Radcliffe at (202) 418-7518  
Theresa Meeks at (202) 418-2945, or  
(202) 418-2843 (fax) or email to  
[RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov)

**FCC Auctions Hotline**

(888) 225-5322, option two; or (717) 338-2868

**Auction 109 Information**

General Auction Information, Process and  
Procedures

**Auctions Division, OEA**

Auctions Hotline at (888) 225-5322, option two; or  
(717) 338-2868

Auction Rules, Policies, and Regulations

Lynne Milne (Attorney) or  
Lyndsey Grunewald (Attorney) at  
(202) 418-0660

**Accessible Formats**

Braille, large print, electronic files, or  
audio format for people with disabilities

**Consumer and Governmental Affairs Bureau**

(202) 418-0530, or (202) 418-0432 (TTY)  
[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

**FCC Internet Sites**

- [www.fcc.gov/auction/109](http://www.fcc.gov/auction/109)
- [http://licensing.fcc.gov/prod/cdb/pubacc/prod/cdbs\\_pa.htm](http://licensing.fcc.gov/prod/cdb/pubacc/prod/cdbs_pa.htm)
- <https://enterpriseefiling.fcc.gov/dataentry/public/v/publicSearchLanding.html>
- [www.fcc.gov](http://www.fcc.gov)
- [www.fcc.gov/media](http://www.fcc.gov/media)

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